

REMARKS

I. Allowed Claims

Claims 1 to 7 were allowed. Claims 1 to 7 have been amended to correct minor informalities, however no substantial changes in the scope or coverage of these claims have been made.

II. Claim and Specification Changes

The current claims 1 to 9 contained some minor informalities. For example claim 2 was not grammatically correct because lines 1 and 2 contained an extra verb. This wording in claim 2 was corrected by the above changes. In addition, the alternative wording in several dependent claims has been put in the proper form for Markush wording. In addition, the preambles of the claims have been put in standard form for US claims, since they are English translations of claims of a German Patent Application.

A few standard section headings were added to the specification.

III. Obviousness Rejection of Claims 8 and 9

Claims 8 and 9 were rejected under 35 USC 103 (a) as obvious over DE 101 41 722 A1, Pasquier, et al.

DE 101 41 722 A1 has a publication date of March 6, 2003, which is earlier than the US filing date of the above-identified US Patent application.

However the above-identified US Patent Application is the US National Stage of PCT/EP 03/04960, filed May 13, 2003, which in turn is based on DE 102 51 106.3, filed November 2, 2002.

Applicants have obtained an Official copy of DE 102 51 106.3 from the German Patent Office and a certified English translation of this priority document to establish that the subject matter of claims 8 and 9 should be accorded the benefit of the filing date of this DE application, namely November 2, 2002, as the effective date of the invention.

This Official copy of DE 102 51 106.3 and the certified English translation accompany this amendment. The certified English translation will show that the amended claims 8 and 9 have the benefit of the priority date, namely November 2, 2002.

For the foregoing reasons withdrawal of the rejection of amended claims 8 and 9 under 35 U.S.C. 103 (a) over DE 101 41 722 A1 is respectfully requested.

IV. Information Disclosure Statement


The Information Disclosure Statement form PTO-A820, returned with the Office Action, indicates that two technical articles that were in English were not considered. However these articles are in the English language. No explanation of the omission of consideration of these articles was provided in the Office Action.

In accordance with M.P.E.P. 609 and 37 C.F.R. 1.98 consideration of these two English language references, *Acta Unio Inter. Contra. Cancerum*, Bd. 15, 1959, pp. 131 – 141 (in English) and *Industrial Medicine*, Bd. 30, Nr. 3, 1970, pp.142-147, is respectfully requested. Furthermore return of another copy of the PTO-A820 form with an indication that these references have now been considered, so that they will be listed on the first page of the patent that issues on this application, is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawing be further amended or corrected in formal respects to put this case in condition for final allowance, then it is requested that such amendments or corrections be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing the case to allowance, he or she is invited to telephone the undersigned at 1-631-549 4700.

In view of the foregoing, favorable allowance is respectfully solicited.

Respectfully submitted,



Michael J. Striker,
Attorney for the Applicants
Reg. No. 27,233